



Billing Code 7510-13

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1815 and 1852

RIN 2700-AE27

Removal of Grant Handbook References (2016-N001)

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: National Aeronautics and Space Administration (NASA) is proposing to amend the NASA FAR Supplement (NFS) to remove references to NASA's Grant and Cooperative Agreement Handbook, NASA Procedural Requirements (NPR) 5800.1, NASA Grant and Cooperative Agreement Handbook and Office of Management and Budget (OMB) Circulars A-21 for educational institutions and A-122 for nonprofit organizations.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** to be considered in formulation of the final rule.

ADDRESSES: Submit comments identified by NFS Case 2016-N001, using any of the following methods:

- o Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "NFS Case 2016-N001" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that

corresponds with "NFS Case 2016-N001." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "NFS Case 2016-N001" on your attached document.

- o E-mail: andrew.orourke@nasa.gov. Include NFS Case 2016-N001 in the subject line of the message.

- o Fax: (202) 358-3082.

- o Mail: National Aeronautics and Space Administration, Headquarters, Office of Procurement, Contract and Grant Policy Division, Attn: Andrew O'Rourke, Suite 5L32, 300 E. Street SW, Washington, DC 20546-0001.

FOR FURTHER INFORMATION CONTACT: Andrew O'Rourke, NASA, Office of Procurement, Contract and Grant Policy Division, Suite 5L32, 300 E. Street SW, Washington, DC 20456-0001. Telephone (202) 358-4560; facsimile 202-358-3082; e-mail: andrew.orourke@nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On September 11, 2015, NASA published a final rule in the **Federal Register** (80 FR 54701) titled, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, to establish policies and procedures for grants and cooperative agreements awarded by NASA. The policies and procedures that recipients must follow are those appearing in

subparts A through F of 2 Code of Federal Regulations (CFR) part 200 and as supplemented by 2 CFR part 1800. Additionally, in December 2014, NASA issued a non-regulatory policy and procedure manual titled, *NASA Grant and Cooperative Agreement Manual*. These two documents replaced the NASA Grant and Cooperative Agreement Handbook and are available at https://answers.nssc.nasa.gov/app/answers/detail/a_id/6487.

II. Discussion

NASA is proposing to remove references to grant and cooperative agreement policy and guidance from the NASA FAR Supplement, which supplements the FAR, because they do not pertain to the procurement of goods and services. The FAR only contains guidance on contracts and no other funding agreements such as grants and cooperative agreements. Consistent with Executive Order (E.O.) 13563, Improving Regulations and Regulatory Review, NASA reviewed the NFS and is proposing to remove references to the NASA Grant and Cooperative Agreement Handbook and Office of Management and Budget (OMB) Circulars A-21 for educational institutions and A-122 for nonprofit organizations located at NFS 1815.602 and in NFS 1852.235-72. Circulars A-21 and A-122 were rescinded and no longer applicable for new awards after December 26, 2014. Both of these OMB circulars were replaced by 2 CFR part 200.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

NASA does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because it merely removes outdated and unnecessary grant and cooperative agreement references that should not be in the NFS. Therefore, an initial regulatory flexibility analysis has not been performed. NASA invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (NFS case 2016-N001) in correspondence.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 1815 and 1852

Government procurement.

Manuel Quinones,

NASA FAR Supplement Manager.

Accordingly, 48 CFR parts 1815 and 1852 are proposed to be amended as follows:

PART 1815—CONTRACTING BY NEGOTIATION

1. The authority citation for part 1815 is revised to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

2. Revise section 1815.602 to read as follows:

1815.602 Policy.

Renewal proposals, (i.e., those for the extension or augmentation of current contracts) are subject to the same FAR and NFS regulations, including the requirements of the Competition in Contracting Act, as are proposals for new contracts.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. The authority citation for part 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 41 U.S.C. chapter 1.

4. Amend section 1852.235-72 by—

- a. Removing from the provision heading “DEC 2005” and adding “DATE” in its place; and
- b. Revising paragraphs (a)(4) and (c)(8)(iii).

The revisions read as follows:

1852.235-72 Instructions for Responding to NASA Research Announcements.

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(a) * * *

(4) A contract, grant, cooperative agreement, or other agreement may be used to accomplish an effort funded in response to an NRA. NASA will determine the appropriate award instrument. Contracts resulting from NRAs are subject to the Federal Acquisition Regulation and the NASA FAR Supplement. A

grant, cooperative agreement, or other agreement resulting from NRAs are subject to policies and procedures outlined in the Guidebook for Proposers Responding to a NASA Funding Announcement, 2 CFR part 1800, 14 CFR part 1274, or other agreement policy. Any proposal from a large business concern that may result in the award of a contract, which exceeds \$5,000,000 and has subcontracting possibilities should include a small business subcontracting plan in accordance with the clause at FAR 52.219-9, Small Business Subcontracting Plan.

(Subcontract plans for contract awards below \$5,000,000, will be negotiated after selection.)

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(c) * * *

(8) * * *

(iii) Allowable costs are governed by FAR part 31 and the NASA FAR Supplement part 1831.

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